IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 7952 OF 2005

Dr.Manmath Bandappa Swami ...Applicant
Versus
State of Maharashtra ...Respondent

Mr.A.S.Khandeparkar with Mr. Mohan P. Tekavde &
Mrs.Swati M. Tekavde for the Applicant.
Mr.R.Y.Mirza, A.P.P. for the State

CORAM : S.C. DHARMADHIKARI, J.
DATE : DECEMBER 22, 2005.

P.C.:

. Heard Mr.Khandeparkar for the applicant and Mr.R.Y.Mirza for the State. Perused the application and the annexures thereto, including the order passed by the learned 1st Adhoc Additional Sessions Judge, Palghar on 25th October, 2005.

2. In the investigation papers, which were produced before the learned Additional Sessions Judge, the statements of one Kashibai and Naina Thakur have been recorded. Those are referred to by the learned Additional Sessions Judge to hold that, prima-facie, it cannot be said that the accused is innocent.

3. The statements have been produced before me for my perusal by Mr.Mirza. In all fairness, he states that the date on which the same are recorded is 5th September, 2005. The incident referred therein is of 12th October, 2004. It also appears that there was disciplinary proceeding in which these statements have been referred to and the deponents have been summoned, which was in April, 2005. There is much substance in the complaint of the applicant that because of his reputation and achievements, a section of people in Dahanu and more particularly journalists have mischievously involved him in a false case. More particularly, after the applicant decided to lodge complaint for the alleged defamatory statement. A Civil Suit is also filed and the same is pending. It is difficult to believe that the complaint filed by the District Surgeon, Alibag on 1st September, 2005 upon statements of patients like the aforesaid really makes out a case under Section 376(2)(b) read with 511 of the Indian Penal Code. The applicant is a reputed Doctor and has been serving in various places in the State. Prima-facie, therefore, the present complaint is motivated.

4. The applicant has pointed out that he has no criminal antecedents and he is willing to cooperate in the investigation. He is residing with his family at

Gadchiroli, where he is posted, but, is agreeable to extend all such cooperation as is necessary.

5. In the light of the aforesaid discussion, the following order :

i) In the event of the arrest of the applicant in connection with C.R.No.I-65 of 2005 registered with Dahanu Police Station, the applicant shall be enlarged on bail in the sum of Rs.10,000/- with one/two sureties in the like amount.

ii) Applicant shall attend Dahanu Police Station as and when summoned.

iii) Bail is granted subject to the condition that applicant shall not directly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter he will be free to apply to the appropriate court for appropriate relief.

vi) Application disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI,J.)